

SOURCES OF MICHIGAN LEGISLATIVE HISTORY

The question is often raised as to how one may review the pre-enactment history of a section of Michigan law. This pre-enactment history of legislation is often referred to as legislative history. Such information can be of value for general historical research and, in some instances, is used for more specific legal research as a way of attempting to ascertain the intent of the legislature in enacting a statute. It is well established in Michigan case law that where statutory language is plain and unambiguous, the courts are to avoid examination of legislative history. Where ambiguity exists in a statute, however, the courts may construe these statutes in accordance with their intent. Reviewing the legislative history of a Michigan statute is part of the process of determining legislative intent.

At the federal level, there are a number of popular sources for locating legislative history, including the *United States Code Congressional and Administrative News*, *Congressional Digest*, *Congressional Quarterly Weekly Report*, *Congressional Index*, and *Congressional Record*. In Michigan, as in most states, background materials on legislation are rarely compiled in a central repository. This is due to a number of factors, including the expense involved and the relatively small number of users of such information.

By looking at a number of diverse sources, however, one may be able to obtain some very useful background information on a bill. A review of proposed and adopted amendments, arguments for and against, and individual viewpoints on a piece of legislation may lend some insight into the reasons behind the passage of a bill. By tracking the progress of a bill, especially proposed changes and the arguments for proposing or rejecting these changes, the researcher may be able to learn something about the specific purpose or purposes for which a bill was passed.

From introduction to enactment, a bill goes through the various steps of the legislative process to ensure that each bill is adequately reviewed before it becomes law. The legislative process consists of a number of stages allowing for the study, review, and debate of proposed legislation. This includes input from private citizens, public agencies, and representatives of private interest groups at committee hearings, as well as from legislators during committee hearings and floor debates. This aggregate testimony and debate, both written and oral, contribute to the final form a piece of legislation takes.

House and Senate Journals

In Michigan, the House and Senate Journals are the first sources of background material which should be examined by persons seeking information on the history of legislation. These journals are the official record of action taken on legislation by the house and the senate, rather than a verbatim record of the proceedings. It should be noted, however, that they contain essential research information: citations, sponsors' names, names of committees which considered the bill, dates when action was taken, and roll call votes. This information can be useful in pointing to further sources the researcher may have to consult for assistance. In addition, the journals often contain material that has a direct bearing upon legislative history, such as amendments which were offered but defeated, "no vote" explanations by members, and titles of reports filed by committees. Journals are maintained by the Library of Michigan (517/373-1300) and the State Law Library (517/373-0630), as well as numerous local libraries, especially regional depository libraries, and other county libraries throughout the state.

To locate and trace a bill through the various steps of the legislative process, the researcher can use the indexes of the House and Senate Journals for the year a law was enacted. It may also be necessary to check either the preceding or subsequent year's journals, since a bill can take up to two years to progress through the biennial meetings of each legislature. Using the Bill and Joint Resolution Index and/or the General Index for each house's journals, one can find the number of the bill in question. The journals also contain a table of acts and bill numbers, allowing a person to find a bill's number by checking it against the public act number. With the bill number, a researcher can use another part of the journals, the Bill Histories, to track the specific days upon which a bill was officially acted, what the action was, and the outcome of the action. This bill history section of the index will reference the House or Senate Journal for the day on which the action took place and the number of the page of the journal on which the action is recorded.

Prior to the publication of each session's journals in bound volumes, paper copies are printed for each daily session of the house and the senate. These daily journals are usually available on the day following each session and can be obtained or accessed at the Legislative Document Room, and at the State Law Library and the Government Document Service of the Library of Michigan.

Status Report

Since it takes some months to completely index, publish, and distribute bound volumes of the journals, similar information can also be found by using a publication referred to as the **Status**, a general index and reference guide to current legislation published by the Michigan Legislative Service Bureau Print Shop. This publication contains much of the same information found in the index to the House and Senate Journals and can be accessed at the Library of Michigan's Government Document Service, the State Law Library, and most legislative offices. Monthly compilations of this publication are available from the Legislative Document Room and subscriptions can be purchased from the Legislative Service Bureau Document Room (517/373-0169).

Another source for the status report on a bill is the on-line Bill Information System, maintained by the Legislative Service Bureau. This system allows a researcher to obtain bill status reports for the current and immediately preceding two-year legislative sessions. In addition to its convenience, this system is searchable by bill and public act number, sponsor, subject, popular name, the public act which is affected, by committee, and by date of introduction. This system can be accessed at the State Law Library and the Legislative Service Bureau Document Room.

Bills

An individual can obtain a copy of a current session bill or joint resolution, as introduced, substituted, or enrolled, from the Legislative Document Room (517/373-0169). This office, located in the North Capitol Annex, can also provide copies of conference reports and current public acts. Bills, substitute bills, and public acts from prior sessions may be obtained from the Library of Michigan's Government Document Service Division or the Law Library of the Library of Michigan.

Other useful sources which may provide information are **Unofficial Amended Senate Bills** and **Unofficial Amended House Bills**. These provide the text of the bill as introduced, with notations made concerning amendments and substitutes. The State Archives of the Michigan Historical Center have unofficial bills from 1947 to 1972. The Legislative Service Bureau Library has access to them for 1973 to the present.

Text of Laws

Copies of all bills that were passed by the legislature from 1853 to 1949 are available at the State Archives section of the Bureau of History, Michigan Department of State (517/373-1408). These are bills as introduced with notations inserted for any amendments made to each bill throughout the legislative process. From 1950 on, these bills are available from the Office of the Great Seal of the Michigan Department of State (517/373-2531).

To review a law or an amendment to a law made in a previous session of the legislature, you can reference a number of sources. If the act number and year are already known, the researcher may consult either of two sources containing the laws for each year's session. The **Public and Local Acts of the Legislature of the State of Michigan**, published by the Legislative Service Bureau, is an annual compilation of each session's public acts, local acts, veto messages of the governor, executive reorganization orders, joint resolutions, constitutional amendments, initiated laws, and other information. Another source is **Michigan Legislative Service**, a compilation published by the West Publishing Corporation, issued periodically during the legislative year and containing most of the same information found in the **Public and Local Acts, Michigan**. Both sets are indexed, and both contain tables which indicate which public acts of that year, if any, amend any section of the Michigan Compiled Laws. A major advantage of **Michigan Legislative Service** is that changes in the text of a law made by an amendatory act are indicated by the insertion of an underline under the new language, and deletions of existing law are noted by the insertion of deletion marks in place of the deleted language. This time-saving technique can be very useful in determining the specific changes made by an amendatory act.

If it is not known specifically when a law was enacted or when a particular amendment was made to a law, the researcher may refer to either of three codifications of Michigan law. The **Michigan Compiled Laws (1979)** is the official publication of Michigan statutes, although this version only reflects the body of Michigan statutory law of a general and permanent nature through the end of 1979. It can, however, be updated by using either the Public and Local Acts, Michigan or **Michigan Legislative Service**. Questor, an on-line electronic database containing an up-to-date version of the Michigan Compiled Laws, is available, through subscription, from the Legislative Service Bureau. It can also be accessed at the Law Library of the Library of Michigan and two other versions of the state's statutes, **Michigan Compiled Laws Annotated (MCLA)**,

prepared by the West Publishing Corporation, and *Michigan Statutes Annotated (MSA)*, prepared by Lawyers Cooperative Publishing, contain a number of additional editorial features which can be of particular value to the researcher. Both are kept relatively current by the use of annual pocket part and pamphlet supplements which reflect any changes in the text of the law made during the years succeeding the printing of each volume of these sets. *Michigan Statutes Annotated* also includes a Current Legislation binder containing the text of recently passed laws as well as a Current Annotations binder, while *Michigan Compiled Laws Annotated* may be updated through the use of the Interim Annotation Service pamphlet and *Michigan Legislative Service*. All three compilations contain catchlines at the top of each statute, so that the reader can tell at a glance the subject of a section. These publications also contain history notes at the bottom of each statute, indicating the source of each statute and a list of subsequent amendatory acts. *Michigan Statutes Annotated* and *Michigan Compiled Laws Annotated*, moreover, have an additional feature: "effect of amendment" notes. These notes indicate not only which public acts amended each particular statute, but also the substantive change made to the statute by each amendatory public act. The advantage of "effect of amendment" notes is that, by using these, the researcher is not required to read every amendment to a particular statute in order to find which act added, amended, or deleted the particular text in which he or she is interested.

Committee Records

Legislative committee records may provide another source of background material. Over the past several years, efforts on the part of the Offices of the Secretary of the Senate and the Clerk of the House to standardize committee record retention and storage schedules have facilitated the availability of these records. For the House, some materials for certain committees are available for the period 1965 to 1969 in the State Archives (517/373-1408). From 1970 to 1990, microfilmed or hard copy records on bills reported out of committee are available at the archives for nearly all House committees. At the beginning of each odd-numbered year, the previous biennial session's House committee records are boxed up and handed over to the office of Clerk of the House, which sends them to the State Archives after being microfilmed by the State Record Center. These microfilmed records are available to the public immediately after the microfilming process is completed. Current House committee records are available by calling the House committee rooms (517/373-0015). In the Senate, materials for certain committees are available for the period 1979 to 1990 in the State Archives. Committee records are available for all Senate committees, upon application to the Secretary of the Senate, for the 1989-1992 sessions of the legislature. Current Senate committee records are available directly from each Senate committee clerk (517/373-2400). At the beginning of each odd-numbered year, the previous biennial session's Senate committee records are boxed and handed over to the Secretary of the Senate for storage and retrieval at the State Records Center of the Michigan Department of Management and Budget. These records are kept at the State Records Center for a period of two years, during which time access is available only through the Secretary of the Senate's office, and are then transferred to and maintained, for public use, at the State Archives.

These committee records may include committee minutes (date, time, place of meeting, decisions made, and roll call votes), bill analyses, letters, and written position statements which may have been submitted to the committee by interested parties. Tape recordings and/or typed transcripts of public hearings conducted by committees may also be available.

Session Tape Recordings

From 1968 to 1990, tape recordings of most House sessions are available at the State Archives. From 1988 to the present, these tapes may be obtained through the office of Clerk of the House, subject to House legislative approval. Additionally, tape recordings of Senate sessions are available, with the approval of the Senate Majority Leader, for the current session, through the office of the Secretary of the Senate.

Boilerplate

Depending upon the subject being studied, a researcher may also wish to examine the so-called "boilerplate" language of appropriation acts. Boilerplate is language inserted into appropriation acts which attaches certain conditions to appropriations or which may require a recipient agency to make reports to the legislature either before or after the expenditure of such appropriations. Thus, boilerplate language may provide some clue as to the intent of the legislature relative to the implementation of a program, or it may indicate the existence of a report which may be useful to a researcher.

Reports

Legislative studies or reports are another source of information. Depending upon the subject matter in question, the researcher may want to contact special or interim committees, caucus and standing committee staffs, individual legislators, the House and Senate fiscal agencies, the Auditor General, the Law Revision Commission, the Uniform State Law Commission, as well as other legislative agencies for specific documents. The Library of Michigan, which maintains collections of such materials, may be able to locate a particular document. The Library of Michigan's Government Document Service compiles *Michigan Documents*, an index for legislative documents which may identify useful materials. Libraries may also be aware of executive agency reports such as those prepared by a governor's task force or commission. One note of caution, however, generally, legislative reports or studies examine a particular issue rather than a specific bill and thus are indexed by subject rather than by bill or act number.

One may also find potentially relevant information concerning the legislative history of a bill by identifying other bills which would have amended the same section of law, or which later did amend the section. Such potentially useful bills may also be found in either previous or subsequent sessions of the legislature. Any bill analyses for these bills may refer to the amendment in question.

Analyses

Bill analyses, which typically include a statement of the problem being addressed, arguments for and against, and other background information on legislation, can be informative although they are not official statements of legislative intent. Bill analyses are prepared by state departments and agencies, the House Legislative Analysis Section (517/373-6466), and the Legislative Analysis Unit of the Senate Fiscal Agency (517/373-5383). The House Analysis Section and the Legislative Analysis Unit of the Senate Fiscal Agency prepare brief summaries of bills when they are taken up in committee and more detailed analyses of bills as they are reported from committee, amended, passed by either house, substituted, and/or enrolled. Analyses may also be prepared by other legislative agencies, including the House Fiscal Agency and by legislative caucus staffs. The Government Documents Service of the Library of Michigan (517/373-1300) maintains an analysis collection dating from 1969, with some analyses available for 1968. The Law Library Division has a collection of bill analyses dating from 1969 to 1972, for analyses prepared by the different state departments on bills which affect them or their subject areas. Legislative analyses, prepared by the House Analysis Section and the Legislative Analysis Unit of the Senate Fiscal Agency, from 1973 to the present, are also maintained by the Government Document Service. House Analysis Section and Senate Fiscal Agency summaries and analyses for bills of the current session can also be obtained from the Legislative Document Room.

Other Sources

Nongovernmental information may be valuable to a research effort. Newspaper accounts, Gongwer News Service's *Michigan Report*, Michigan Information & Research Service's *Legislative Report* and *Capitol Capsule*, the *Michigan Bar Journal*, and law journal articles are examples of such materials. *Michigan Report* is also available on-line and is searchable by key words. While this resource does not extend very far back in time, if an issue has been in the news recently, this may quickly provide background or explanatory material. Consulting a newspaper index for articles in the year that the legislation was passed may also provide information. Some newspapers are also accessible through computer terminals. The Library of Michigan, for example, has the *Detroit Free Press* and *The Detroit News* on CDs. While limited to recent articles, this can be a quick method to search a sizable amount of material. A researcher may also find it useful to contact specific lobby groups which may have been involved in the passage of legislation, as these groups may have compiled and retained information on a particular issue or bill.

Another source of information may be found in Attorney General Opinions. Cumulative indexes are available. Or if a section of law is old enough, there may even be books available on the topic. A check of library holdings, especially if such holdings are on-line, may unearth even more information.

In addition to the preceding sources, it may be helpful to contact the legislators who sponsored the bill. Sponsors may have retained or may be aware of the location of reports and press releases relating to the legislation in question. Also, a legislator's personal recollection may provide valuable insight. State or local agencies which administer an act can also be helpful.

Government agencies may have rules, regulations, policies, or guidelines designed to implement a law. They may also have retained reports or analyses developed by that agency dealing with a bill. Annual reports of executive departments and agencies also may contain very useful information.

The State Archives maintains a file containing the donated records of various state officials. Circular No. 39, ***Records of Politicians***, available at the State Archives, lists, in alphabetical order, the names of the officials who have turned over their papers over the years. It also denotes the years covered by the donated papers. Circular No. 14 lists, by topic, the records of various special legislative committees held by the State Archives. Circulars 17 and 18 list the standing committees of the House and Senate, respectively, which have turned over their records to the State Archives. They also denote the two-year sessions of the Legislature for which these records are maintained.

A complete review of all of the sources cited above can be a very time-consuming exercise. In many instances, however, such a search may reveal insightful information concerning the purposes for the passage of a bill.

Constitutions of the State of Michigan.

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Michigan: A History of the Wolverine State, Willis F. Dunbar, William B. Eerdmans Publishing Company, Grand Rapids, Michigan, 1965.

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1992 Apportionment Plan, Michigan House of Representatives.

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Ordinance of 1787.

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United States Statutes at Large.